

FILED

Mar 27, 2023

CLERK, U.S. DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIASTEVE WILHELM P61166
Name and Prisoner/Booking NumberMULE CREEK STATE PRISON
Place of Confinement4001 HWY 104 / PO BOX 409090 EI9-0202
Mailing AddressIONE, CA. 95640
City, State, Zip Code

(Failure to notify the Court of your change of address may result in dismissal of this action.)

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIASTEVE WILHELM
(Full Name of Plaintiff) Plaintiff,

v.

(1) SANDAR RUNG, ET AL.
(Full Name of Defendant)

(2) _____

(3) _____

(4) _____

Defendant(s).

☐ Check if there are additional Defendants and attach page 1-A listing them

2:22-cv-2323 DB (PC)

CASE NO. ~~2:23-cv-0573 GKD (PC)~~

(To be supplied by the Clerk)

CIVIL RIGHTS COMPLAINT
BY A PRISONER☒ Original Complaint☐ First Amended Complaint☐ Second Amended Complaint

A. JURISDICTION

1. This Court has jurisdiction over this action pursuant to:

☒ 28 U.S.C. § 1343(a); 42 U.S.C. § 1983☐ 28 U.S.C. § 1331; Bivens v. Six Unknown Federal Narcotics Agents, 403 U.S. 388 (1971).☐ Other: _____2. Institution/city where violation occurred: MULE CREEK, IONE

B. DEFENDANTS

1. Name of first Defendant: SANDAR AUNG. The first Defendant is employed as:
PHYSICIAN at MULE CREEK STATE PRISON
(Position and Title) (Institution)
2. Name of second Defendant: _____. The second Defendant is employed as:
_____ at _____
(Position and Title) (Institution)
3. Name of third Defendant: _____. The third Defendant is employed as:
_____ at _____
(Position and Title) (Institution)
4. Name of fourth Defendant: _____. The fourth Defendant is employed as:
_____ at _____
(Position and Title) (Institution)

If you name more than four Defendants, answer the questions listed above for each additional Defendant on a separate page.

C. PREVIOUS LAWSUITS

1. Have you filed any other lawsuits while you were a prisoner? ☒ Yes ☐ No
2. If yes, how many lawsuits have you filed? _____. Describe the previous lawsuits:
 - a. First prior lawsuit:
 1. Parties: WILHELM v. ROTMAN
 2. Court and case number: DISTRICT COURT, EASTERN 1:10-CV-00001-GBC
 3. Result: (Was the case dismissed? Was it appealed? Is it still pending?)
DENIED
 - b. Second prior lawsuit:
 1. Parties: WILHELM v. UNKNOWN
 2. Court and case number: DISTRICT COURT - EASTERN 1:12-CV-00386-AW1-GBC
 3. Result: (Was the case dismissed? Was it appealed? Is it still pending?)
DENIED
 - c. Third prior lawsuit:
 1. Parties: WILHELM v. UNKNOWN
 2. Court and case number: DISTRICT COURT - EASTERN 14CECG03893
 3. Result: (Was the case dismissed? Was it appealed? Is it still pending?)
DENIED

If you filed more than three lawsuits, answer the questions listed above for each additional lawsuit on a separate page.

D. CAUSE OF ACTION

CLAIM I

1. State the constitutional or other federal civil right that was violated: EIGHTH AMENDMENT

2. Claim I. Identify the issue involved. Check **only one**. State additional issues in separate claims.

- | | | | |
|--|---|---|--|
| <input type="checkbox"/> Basic necessities | <input type="checkbox"/> Mail | <input type="checkbox"/> Access to the court | <input checked="" type="checkbox"/> Medical care |
| <input type="checkbox"/> Disciplinary proceedings | <input type="checkbox"/> Property | <input type="checkbox"/> Exercise of religion | <input type="checkbox"/> Retaliation |
| <input type="checkbox"/> Excessive force by an officer | <input type="checkbox"/> Threat to safety | <input type="checkbox"/> Other: _____ | |

3. Supporting Facts. State as briefly as possible the FACTS supporting Claim I. Describe exactly what each Defendant did or did not do that violated your rights. State the facts clearly in your own words without citing legal authority or arguments.

DR. AUNG HAS BEEN PLAINTIFF'S PHYSICIAN SINCE ABOUT JULY 2018. PLAINTIFF WAS FIRST DIAGNOSED WITH KIDNEY DISEASE (STAGE 2) NOVEMBER 16, 2017, BY DR. GU... THIS INFORMATION WAS POSTED ON PLAINTIFF'S PERMANENT MEDICAL RECORD AND COMES UP ON THE COMPUTER EACH TIME AUNG BRINGS UP PLAINTIFF'S MEDICAL RECORD. AUNG HAS PLAINTIFF TAKE A BLOOD TEST ON A REGULAR BASIS TO CHECK HIS GLOMERULAR FILTRATION RATE (GFR), AND HIS CREATININE LEVEL TO CHECK HIS LEVEL OF KIDNEY DISEASE. AUNG MENTIONED TO PLAINTIFF AT SEVERAL OF HIS APPOINTMENTS WITH HER, THAT HIS CREATININE LEVEL WAS HIGH, AND HIS GFR WAS DROPPING. THOUGH AUNG WAS VERY AWARE OF PLAINTIFF'S KIDNEY ISSUE, SHE FAILED TO DO ANY FOLLOW-UP, i.e., SEE A NEPHROLOGIST (KIDNEY SPECIALIST), OR PUT HIM ON A SPECIAL RENAL DIET. PLAINTIFF HAD AN APPOINTMENT WITH AUNG SEPTEMBER 16, 2020, ON AN UNRELATED MATTER, BUT WHILE THERE PLAINTIFF ASKED HER TO LOOK AT HIS EXTENDED AND HARD STOMACH... SHE (AUNG) EXAMINED PLAINTIFF'S STOMACH, BUT DID NO FOLLOW-UP. PLAINTIFF HAS HAD AN ENLARGED PROSTATE FOR ABOUT TEN (10) YEARS, WHICH AUNG WAS WELL AWARE OF. AT THE POINT WHEN PLAINTIFF ASKED AUNG TO EXAMINE HIS STOMACH, SEPTEMBER 16, 2020, HIS PROSTATE (SEE ATTACHED PAGES 3A, 3B)

4. Injury. State how you were injured by the actions or inactions of the Defendant(s).

DR. AUNG'S FAILURE TO RESPOND REASONABLY TO PLAINTIFF'S CONDITION (STOMACH AND URINATION ISSUE), RESULTED IN A SIGNIFICANT INJURY AND/OR UNNECESSARY AND WANTON INFLECTION OF PAIN, i.e., CAUSING PLAINTIFF THE PAIN OF WEARING A CATHETER - (SEE ATTACHED PG. 3C)

5. Administrative Remedies:

- Are there any administrative remedies (grievance procedures or administrative appeals) available at your institution? ☒ Yes ☐ No
- Did you submit a request for administrative relief on Claim I? ☒ Yes ☐ No
- Did you appeal your request for relief on Claim I to the highest level? ☒ Yes ☐ No
- If you did not submit or appeal a request for administrative relief at any level, briefly explain why you did not. _____

CONTINUANCE OF PAGE 3-#3

WAS FOUR (4) TIMES LARGER THAN NORMAL, AND HIS PSA COUNT WAS 58.2, NORMAL COUNT IS AROUND 4.4.

BECAUSE OF THE SIZE OF PLAINTIFF'S PROSTATE, IT HAD PUSHED INTO HIS BLADDER, PARTIALLY CLOSING IT OFF.... THIS CAUSED URINE TO BACK-UP IN HIS KIDNEYS AND STOMACH, BLOATING HIS STOMACH. THIS CAUSED PLAINTIFF TO BE IN BOARDERLINE BETWEEN STAGE 3+4 OF KIDNEY DISEASE.

ALL OF THESE NEW PROBLEMS COULD HAVE BEEN AVOIDED IF AUNG HAD FOLLOWED THROUGH AFTER EXAMING PLAINTIFF'S STOMACH, WHICH WAS OBVIOUS THERE WAS A PROBLEM.

PLAINTIFF WAS TEMPORARILY ASSIGNED TO DR. DARAM BECAUSE DR. AUNG WAS TEMPORARILY RE-ASSIGNED TO ANOTHER YARD. PLAINTIFF HAD AN APPOINTMENT WITH DR. DARAM FEBRUARY 8, 2021.... AT THIS APPOINTMENT PLAINTIFF HAD DARAM EXAMINE HIS STOMACH, AFTER SHE EXAMINED HIS STOMACH, SHE IMMEDIATELY SENT PLAINTIFF DOWN THE HALL TO DR. RUDIS, A UROLOGIST.

THE UROLOGIST INSERTED A CATHETER INTO THE PLAINTIFF AND DRAINED MORE THAN A "GALLON" OF URINE FROM HIS KIDNEYS AND STOMACH. PLAINTIFF HAD TO WEAR THE CATHETER FOR MORE THAN THREE (3) MONTHS UNTIL HE HAD PROSTATE SURGERY TO REMOVE PART OF HIS PROSTATE, TO RELIEVE THE PRESSURE OFF HIS BLADDER. THE UROLOGIST SAID, "IN HIS TWENTY (20) YEARS AS AN UROLOGIST, HE HAS NEVER SEEN THAT MUCH URINE DRAINED FROM A PERSON." FURTHER, DR. DARAM PUT PLAINTIFF ON A SPECIAL RENAL DIET. HAD PLAINTIFF NOT BEEN ASSIGNED

TO DR. DARAM AT THAT POINT IN TIME, AND SHE, DARAM, HAD NOT RECOGNIZED THE PROBLEM WITH PLAINTIFF'S STOMACH AND TOOK THE ACTION SHE DID, PLAINTIFF WOULD BE IN "COMPLETE KIDNEY FAILURE."

BECAUSE OF AUNG'S FAILURE TO RECOGNIZE THE CONNECTION BETWEEN PLAINTIFF'S URINATION PROBLEMS AND HIS STOMACH PROBLEM.... AUNG'S FAILURE TO FOLLOW THROUGH ON THESE PROBLEMS, HAS CAUSED PLAINTIFF TO BE IN PERMANATE "ADVANCED KIDNEY DISEASE".

E. REQUEST FOR RELIEF

State the relief you are seeking:

COMPENSATORY DAMAGES: \$1,000,000.00 FOR BEING PUT IN ADVANCED KIDNEY DISEASE
BY AUNG'S DELIBERATE INDIFFERENCE TO PLAINTIFF'S MEDICAL NEEDS; THE PAIN AND SUFFERING WHICH HAVE
OCCURRED AND FACING FUTURE DIALYSIS AND/OR KIDNEY TRANSPLANT; THE FUTURE MEDICAL EXPENSES
FOR DIALYSIS OR KIDNEY TRANSPLANT.... THESE ISSUES HAVE ALREADY EFFECTED MY CURRENT DAILY LIFE,
AND WILL LAST A LIFETIME.
PUNITIVE DAMAGES: \$10,000.00 FOR AUNG'S RECKLESS INDIFFERENCE TO PLAINTIFF'S
MEDICAL RIGHTS/NEEDS.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on _____
DATE

SIGNATURE OF PLAINTIFF

(Name and title of paralegal, legal assistant, or
other person who helped prepare this complaint)

(Signature of attorney, if any)

(Attorney's address & telephone number)

ADDITIONAL PAGES

All questions must be answered concisely in the proper space on the form. If you need more space you may attach more pages, but you are strongly encouraged to limit your complaint to twenty-five pages. If you attach additional pages, be sure to identify which section of the complaint is being continued and number all pages. Remember, there is no need to attach exhibits to your complaint.

DISCUSSION

PLAINTIFF HAS A SERIOUS MEDICAL DISEASE (ADVANCE KIDNEY DISEASE) WHICH DR. AUNG HAS SHOWN NOTHING BUT A DELIBERATE INDIFFERENCE TO THOSE MEDICAL NEEDS. THAT INDIFFERENCE HAS CAUSED PLAINTIFF NEEDLESS PAIN AND SUFFERING, AND PUT HIM IN STAGE 3 KIDNEY DISEASE.

PLAINTIFF WAS FIRST DIAGNOSED WITH STAGE 2 KIDNEY DISEASE NOVEMBER 16, 2017. PLAINTIFF HAD BEEN MAINTAINING HIS KIDNEY DISEASE AT STAGE 2, UNTIL DR. AUNG'S INDIFFERENCE TO PLAINTIFF'S STOMACH PROBLEMS, WHICH HE BROUGHT UP TO HER AT HIS MEDICAL APPOINTMENT SEPTEMBER 16, 2020.

THOUGH AUNG WAS VERY AWARE OF PLAINTIFF'S KIDNEY DISEASE, SHE FAILED TO SEND HIM TO A NEPHROLOGIST. ALSO, AUNG PRESCRIBED TO PLAINTIFF NITROFURANTOIN, AN ANTIBODY.... THE NEPHROLOGIST TOLD PLAINTIFF AUNG SHOULD HAVE NEVER PRESCRIBED THAT ANTIBODY TO HIM WITH HIS KIDNEY DISEASE.

MOREOVER, BECAUSE OF AUNG'S INDIFFERENCE TO PLAINTIFF'S STOMACH ISSUE, HE HAD TO ENDURE ANOTHER SIX MONTHS WITH URINE BACKING UP INTO HIS BLADDER AND STOMACH, EXACERBATING HIS KIDNEY PROBLEM, AND CAUSING HIM TO ENDURE WEARING A CATHETER FOR MORE THAN THREE MONTHS.